

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JEFFREY S. SMITH,

Plaintiff,

vs.

Civil Action No. _____

JURY DEMAND

TENNESSEE FLORIST SUPPLY, INC.,)

c/o Carrier CPA Firm, PLLC)

Registered Agent)

116 Lynnwood Dr.)

Knoxville, TN 37917)

And)

DUANE ALLEN CAPPS,)

10624 Plum Creek Rd.)

Knoxville, TN 37922,)

Defendants.)

COMPLAINT

This cause of action is within the jurisdiction of this Court pursuant to 28 U.S.C. § 1332 based on the diversity of citizenship of the parties and the amount in controversy, which exclusive of costs, exceeds the sum of \$75,000.00 (Seventy-Five Thousand and No/100 Dollars).

1. Plaintiff Jeffrey S. Smith ("Jeffrey Smith"), is a citizen and resident of North Carolina, residing at 15 Grove Garden Avenue, in Candler, North Carolina.

2. Defendant Tennessee Florist Supply, Inc., is a domestic corporation incorporated and existing under the laws of the State of Tennessee, whose principle address is 2713 John Deere Avenue, Knoxville, TN 37917, and can be served with process via their Register Agent, Carrier CPA Firm, PLLC, at 116 Lynnwood Dr., Knoxville, TN 37918.

3. Defendant Duane Allen Capps ("Capps") is a citizen and resident of Knox

County, Tennessee and can be served with process at his address located at 10624 Plum Creek Rd., Knoxville, TN 37922.

4. This action is based on a motor vehicle collision which occurred on or about November 3, 2020, within the Eastern District of Tennessee.

5. On or about November 3, 2020, plaintiff Jeffrey Smith was operating a 2020 GMC Terrain vehicle and was facing in a southerly direction on Highway 33 in Claiborne County, stopped at a red light.

6. At or about the same time, defendant Capps was negligently operating a 2012 Ford EC2 behind the plaintiff when he failed to stop his vehicle and struck the rear of plaintiffs' vehicle, knocking the Smith vehicle through the intersection.

7. Plaintiff alleges defendant was distracted and not paying proper attention to the roadway in front of him causing the collision.

8. Plaintiff alleges defendant Capps was negligent in the following respects:

- a. Failing to keep a proper look out
- b. Failing to maintain control of his vehicle
- c. Following too close
- d. Reckless driving

9. Plaintiff alleges that defendant Capps failed to comply with the following sections of *Tennessee Code Annotated* which constitutes negligence *per se* to wit:

- a. 55-8-103. Required obedience to traffic laws
- b. 55-8-124. Following too closely
- c. 55-8-136. Drivers to exercise due care
- d. 55-10-205. Reckless Driving

10. The defendant Capps was operating as an agent and servant employee of Tennessee Florist Supply, Inc. and within the scope of employment at the time of the accident. Therefore, the defendant Tennessee Florist Supply, Inc. is liable under the Doctrine of Respondeat Superior.

11. As a direct and proximate result of defendant's negligence and/or failure to comply with his duty of care, plaintiff Jeffrey Smith sustained injuries which caused him to incur medical expenses, pain and suffering, and other related expenses, both past and future. Plaintiff Jeffrey Smith's injuries are permanent in nature and have resulted in loss of earnings, earning capacity and enjoyment of life.

WHEREFORE, plaintiff sues the defendants in the sum of Seven Hundred Fifty Thousand and No/100 Dollars (\$750,000.00) for damages and demand a jury to try this case.

GILREATH & ASSOCIATES, PLLC

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